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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,258	07/31/2003	Maria E. de Leon	19,245	5492

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EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/632,258

Applicant(s)

DE LEON ET AL.

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 9, 10 and 20-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 11-19, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/16/06.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawing (elected Figure 5) is objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Specification**

2. The disclosure is objected to because of the following informalities: page 15, lines 20 and 26, the terms "Fig. 7" should be changed to read --Fig. 9--.

Appropriate correction is suggested.

**Claim Objections**

3. Claims 1, 32 and 33 are objected to because of the following informalities: all capital letters in the body of the claims should be changed to lower case letters since only the first letter at the beginning of the claim should be capitalized. Appropriate correction is suggested.

**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

5. Claim 33, as presently understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Frankel (5375271).

The Frankel reference discloses a disposable mat (10) having a longitudinal direction, a lateral direction and at least one edge (Fig. 1). The mat also includes a first face (16), a second face (12) and a decorative graphic (18) located on the second surface. The decorative graphic has a theme which is the head of an elephant (col. 4, lines 15-19) or an elephant head with bubbles coming out of the elephant's trunk (Fig. 1). Such decorative graphic theme is

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inherently related to the theme of the article graphics of a known disposable diaper (see cited US 6297424 and US 2005/0015066).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

7. Claims 1-4, 8, 11-17, 31 and 32, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuneki (JP 2002-165729) in view of Mason, III (5379558).

Regarding claim 1, the Tsuneki reference discloses a disposable mat (1) having a longitudinal direction, a lateral direction and an edge (Fig. 4). The mat includes a first face (6), a second face opposite the first face(5), and a holding mechanism (at 7) configured to increase the resistance of the mat to movement when the first face is the place is placed upon a planar surface. The Tsuneki reference DIFFERS in that it does not specifically include a line of weakness as claimed. Attention, however, is directed to the Mason, III reference which discloses another disposable mat (Fig. 2) having at least a line of weakness being configured to allow the separation of a removable portion from the disposable mat. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Tsuneki mat by

employing a line of weakness, in view of the teaching of Mason, III, in order to form the crevice for the Tsuneki mat according to the configuration of the toilet bowl or urinal that is being used.

Regarding claim 2, the first face (6) is liquid impermeable.

Regarding claim 3, the line of weakness is provided by perforation (Mason, III, col. 3, lines 61-65).

Regarding claim 4, even though the modified Tsuneki reference does not specifically disclose that the at least one line of weakness is provided by ultrasonic bonds, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Tsuneki reference by using the ultrasonic bonds as a preferred thermal forming process to form the at least one line of weakness. Such modification would be considered a mere preferred process for forming a line of weakness on the basis of its suitability for the intended use especially since such forming of a line of weakness could be formed by known thermal forming process (see cited US 4675015, col. 2, lines 10-11 as evidence).

Regarding claim 8, as schematically shown in Figure 2 of Mason, III, the line of weakness is curvilinear.

Regarding claim 11, the mat further includes a mat perimeter. As schematically shown in Figure 2 of Mason, III, the line of weakness is shaped such that upon separating the removable portion from the mat, the mat includes an opening within the mat perimeter.

Regarding claim 12, the modified Tsuneki reference DIFFERS in that it does not specifically disclose the opening is at least 22 cm wide as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such width for the opening size since discovering an optimum value for size of an opening involve only routine skill in the art.

Regarding claims 13 and 14, as schematically shown in Figure 3 or 4 of Tsuneki, the mat includes a first pair of reference marks located on the second surface. The pair of reference marks is configured to indicate where the feet of the user should be placed. The first pair of reference marks is each located a first substantially equal distance from the line of weakness.

Regarding claim 15, the modified Tsuneki reference also DIFFERS in that it does not specifically disclose that the marks locate a first substantially equidistance between 5 and 22 cm as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Tsuneki mat by using such equidistance for placing the marks because (a) such location of the marks allows user to be placed in the central location of the toilet, thereby preventing misaim when urinating and (b) discovering an optimum value for the preferred distance between the marks involve only routine skill in the art.

Regarding claim 16, each of the pair of first reference marks are provide a by a set of first graphics (which are the foot prints) and are substantially similar.

Regarding claim 17, a pair of footprints depicts the pair of first reference marks.

Regarding claim 31, as schematically shown in Figure 3 or 4 of Tsuneki, the mat has a substantially rectilinear (straight lines) shape.

Regarding claim 32, the Tsuneki reference discloses a disposable mat (1) having a longitudinal direction, a lateral direction and an edge (Fig. 4). The mat includes a liquid impermeable first face (6), an absorbent second face opposite the first face (5), and a holding mechanism (at 7) configured to increase the resistance of the mat to movement when the first face is the place is placed upon a planar surface. The Tsuneki reference DIFFERS in that it does not specifically include a line of weakness as claimed. Attention, however, is directed to the Mason, III reference which discloses another disposable mat (Fig. 2) having at least a line of weakness being configured to allow the separation of a removable portion from the disposable mat. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Tsuneki mat by employing a line of weakness, in view of the teaching of Mason, III, in order to form the crevice for the Tsuneki mat according to the configuration of the toilet bowl or urinal that is being used. As schematically shown in Figure 3 or 4 of Tsuneki, the mat includes a first pair of reference marks located on the second surface. The pair of reference marks is configured to indicate where the feet of the user should be placed. The first pair of reference marks is each located a first substantially equal distance from the line of weakness.



8. Claims 18 and 19, as best understood since the claimed limitations are vague and unclear, are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Tsuneki (as discussed above) in view of Tokiko (2002209799).

The modified Tsuneki reference also DIFFERS in that it does not specifically include a decorative graphic as claimed. Attention, however, is directed to the Tokiko reference which discloses another mat for protecting the floor. The mat includes a decorative graphic (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Barker mat by employing a decorative graphic, in view of the teaching of Tokiko, in order to provide visual stimulation to the user while using the mat. Regarding the limitation "related in theme", the decorative graphic appears to be stars stimulation graphics. Such first set of graphics and the decorative graphic are related in theme since the first set of graphics (foot prints) tells a young user, i.e. an infant where to stand when potty training and the decorative graphic provides artistic stimulations to the young user when using the toilet.

9. Claim 33, as best understood since the claimed limitations are vague and unclear, is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuneki (JP 2002-165729).

The Tsuneki reference discloses a disposable mat (1) having a longitudinal direction, a lateral direction and an edge (Fig. 4). The mat includes a first face (6), a second face opposite the first face (5). As schematically shown in

Figure 3 or 4 of Tsuneki, the mat includes a first pair of reference marks located on the second surface. The pair of reference marks is configured to indicate where the feet of the user should be placed. Furthermore, it would have been obvious to one of ordinary skill in the art to recognize that the first pair of reference marks is a pair of footprints which are inherently a designed graphics that would be used in other disposable absorbent article (see cited US 6297424 & US 2005/0065489).

***Response to Amendment***

10. Applicant's amendment, filed on 03/27/06, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

11. Applicant's arguments filed on 03/27/06 with respect to the pending claims have been fully considered. However, such arguments are deemed not persuasive.

Applicant asserts that the Frankel reference does not teach a mat including a decorative graphic having a decorative graphic theme where the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article. See remarks section, paragraph 2. The examiner disagrees.

On the contrary, Frankel does disclose a bath mat having graphics with a decorative theme that is a spraying elephant head (notes: bubbles are thematically related to an elephant head since it is known that the elephant uses its trunk to spray fluid while bathing or playing). Such decorative graphic (i.e. a fun-having animal) has

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theme that are related to the graphics on a known, disclosed diaper such as the one described in the US 6297424 (col. 3, lines 55-65; col. 4, lines 39-49) which discloses a fun-having animal or the one described in the US 2005/0015066 (Fig. 6D) which discloses a spraying elephant head. Thus, the Frankel reference does disclose the invention as claimed in claim 33.

Applicant also asserts that there is no suggestion or teaching to combine the references, i.e. Tsunek and Mason III to arrive at applicant's invention as claimed. See the Remarks section, paragraph 3. The examiner disagrees.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reasons why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

In this case, for instance, the Tsuneki reference discloses a disposable mat having substantially all claimed features except for the line of weakness being configured to allow the separation of a removable portion from the disposable mat. Mason III is applied herein for the teaching of forming the line of weakness configured to allow the separation of a removable portion from a disposable mat. The examiner

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maintains that such modification, i.e. forming the line of weakness configured to allow the separation of a removable portion from a disposable mat is obviously within one of ordinary skill art and is not convinced that such claimed subject matter rises to the level of patentability.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line underneath.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
06/09/2006